



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0027; FRL-9638-6]

Revisions to the California State Implementation Plan, Mojave
Desert Air Quality Management District and Yolo-Solano Air
Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) and Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_x) emissions from glass melting furnaces and biomass boilers. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATE: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2012-0027, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental

Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location

(e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 972-3248, perez.idalia@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates when they were adopted or amended by the local air agencies

and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted/ amended	Submitted
MDAQMD	1165	Glass Melting Furnaces	08/12/08	12/23/08
YSAQMD	2.43	Biomass Boilers	11/10/10	04/05/11

On April 20, 2009, EPA determined that the submittal for MDAQMD Rule 1165 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On May 6, 2011, EPA determined that the submittal for YSAQMD Rule 2.43 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of YSAQMD Rule 2.43. There are no previous versions of Rule 1165 in the SIP, although the MDAQMD adopted an earlier version of this rule on August 27, 2007, and CARB submitted it to us on March 7, 2008. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rules?

NO_x helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the

environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control NO_x and PM emissions. MDAQMD Rule 1165 limits emissions of NO_x, carbon monoxide (CO), volatile organic compounds (VOCs), and sulfur oxides (SO_x) from glass melting furnaces that produce at least 5 tons of glass per day. YSAQMD Rule 2.43 regulates emissions of NO_x and CO from boilers that use biomass as fuel and that have a heat input rating of greater than 5 MMBtu/hour. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(b)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available

Control Technology (BACT), in serious PM nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The MDAQMD regulates an ozone nonattainment area and a PM10 nonattainment area classified as moderate (see 40 CFR part 81), so Rule 1165 must implement RACT and RACM. The YSAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 2.43 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability, RACT and RACM requirements consistently include the following:

1. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NOx Supplement), 57 FR 55620, November 25, 1992.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.

6. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters," CARB, July 18, 1991.
 7. "Alternative Control Techniques Document-- NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers," US EPA 453/R-94-022, March 1994.
 8. "Alternative Control Techniques Document-- NOx Emissions from Utility Boilers," US EPA 452/R-93-008, March 1994.
 9. "State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup and Shutdown" from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, September 20, 1999.
 10. "Interim White Paper - Midwest RPO Candidate Control Measure: Glass Manufacturing," Lake Michigan Air Directors Consortium, December 12, 2005.
 11. "Alternative Control Techniques Document-- NOx Emissions from Glass Manufacturing," US EPA 453/R-94-037, June 1994.
 12. "Integrated Pollution Prevention and Control (IPPC) Reference Document on Best Available Techniques in the Glass Manufacturing Industry," European Commission, December 2001.
- B. Do the rules meet the evaluation criteria?
- We believe these rules are consistent with the relevant

policy and guidance regarding enforceability, RACT, RACM and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules.

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules but are not currently the basis for rule disapproval.

D. Public comment and final action.

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: February 15, 2012

Signed: Jared Blumenfeld,
Regional Administrator,
Region IX.

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at 8:45 am; Publication Date: 02/28/2012]